

PRESERVED

G. R. S. App. F. IX-4]

Previous References.

Legs File No. 41-4
Serial Nos. 1

Later References.

(98)

GENERAL AND REVENUE SECRETARIAT

Serial Nos.

One only
2

Part B for

May 1942-

SUBJECT

Mysore Factone Amendment Act
1942

to

The Compiler Mysore Gazette?

RI-1320 Leg 41-41-4 dated 27th Jan 1942

Directs the publication of the

as Act X of

Extending the provisions of the Mys
Factories Act and Rules to small factories
employing less than 20 persons.

venue

File No. 54 of 1940

[App. F. III-2]

Serial

Letter No. F 155/60-
dated 19th August, 1940, from the
Director of I & C recommending
extension of the provisions of
the Mysore Factories Act relating
to Health and Safety and Work
hours etc., to the small and
unregistered factories working
in the State

The provisions of the Mys
Factories Act (1 of 1936) apply at
present to factories employing
20 or more workers and where
a manufacturing process is being
carried on with the aid of Power

2) The Director's present
proposal is for extending the
provisions of the Act to small
and unregistered factories
working in the State and employing
10 persons and more and using
Power" as recommended by the
Labour Welfare Board.

3) Under Section 5 of the Act
Government have power to declare
by notification in the Gazette, any
premises to be a factory where
manufacturing process is carried
on with or without the aid of

is where ten or more work
have employed on any one do
the year preceding the Notifi
this Notification has effect
in 12 months only

that is if not more
than 9 persons were
employed during the
period

4) The Director's Re ...
is Sub for over

5) It is submitted in this
section that if the ~~propos~~
heuristic of the Act have pro
to apply generally to all types
small factories and if the
~~measure~~ is to be a permanent
measure then an amendment
found appears necessary
was done in the case of the
Government of India Act.

6) The Law Secretaries may be
consulted

7) It is perhaps desirable to
bring then small factories also subject to the
provisions of the Factories Act.

8) The Director proposes to issue a
notification under Sec 5(1) of the Act. It is
consideration whether a notification
as issue is justified or whether action
will be taken to amend the Act.

9) The Law Section may be consulted.

Exempting *the provisions of the Regs re*
Factories Act *and rules to small factories.*
emphasis *less than 20 persons* *681 v 2261*

File No. 54 of 1940 [App. F. III-2]

File No. 54

[App. F. III-2]

1205 a 7-11 two

calls for a draft amending
the Fisheries Act.

Letter to ²F-155/46-41 dated 3/5th Dec
1946 from the Div 92nd Staff Lt
a notification in exercise powers conferred
by section 5(1) of the Factories Act in this
behalf would be enough to reject the view, and
forwarding draft notifications for consideration.

25) Suba - for a dev. Refce P. 18 and 22 Apr

26) For paras 7 penial and other
rotes at paras 13 to 18 are for penial.

27) If approved the Director will be addressed again with motion informing him why Govt. consider it advisable to amend the act.

10/12/12

2. Dwy

Yes. The file may be sent to him up.

29/11

Forwarded with compliments
to the Director of Industries and
Commerce with reference to Paras 27 & 28.

By order
Human Rights
For Secretary to Govt
Development Dept
2/1/41

30) U.O.No.F.155/40-41 dated the 21st January 1941.

Returned with compliments.

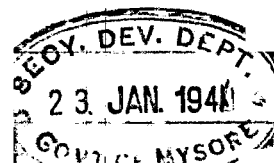
Draft amendments to the Act are placed on the
file along with a bill and a statement of objects and
reasons, for the consideration of Government.

Bh. M. Datta
Director of Industries
and Commerce.

Development Secretary)
to Government.

Serial
No.

Ho No 28 / 22/41
uo-4



showing up in 1-achonies to small tax

Serial
No.

31) Sub for orders.

Para 35 of 38.

38) 2/4/41

DEWAN'S OFFICE

24 MAR. 1941

NO. 6277

16/3/41
39) 10/3

Duty)

For perusal. The Labour Welfare Bd have proposed the extension of the act and the Law Sect to consider the amendment of the Act for the purpose desirable.

The abt amendment and statement of objects and reasons may be approved for being placed before the next session; the D. A. and L. C.

md 2/3/41

OFFICE OF THE
FIRST MEMBER OF COUNCIL
MAR 21 1941
No. 9463

20 MAR 1941
No. 9425

First Member

40)

md 22/3/41

26/3/41

Dew

41)

Secd Member 42)

72
9.4-3-41

md 25/3/41

md

26-3-41

26/3/41

43) D.F.N. mems.

16/3/41

and Please put up fair draft

45) Fair of mems

16/3/41

For forward approval

1. signed by D.F.N. for approval
4/41 Member I & Member 9/41

S.N. submitted..

Final Note by the First Member of Council.

Subject.— Extending the Provisions of the Mysore Factories Act and Rules to small factories employing less than twenty persons.

The provisions of the Mysore Factories Act (1 of 1936) and the rules thereunder apply at present to Factories which employ twenty or more workers and use power. The Director of Industries and Commerce now reports that there are a number of small factories, such as rice mills, printing - presses etc., which use power but do not come under the operation of the present Act as they employ less than twenty workers. These factories are found to be working under unsatisfactory conditions and no action has been possible in the case of such factories as they do not come within the definition of a "Factory" as laid down in Section 2 of the Act. The British Indian Act has been amended to bring all power factories employing ten or more workers within the ^{purview} provision of the Act. On the recommendation of the Labour Welfare Board the Director has proposed certain amendments to sections 2 and 5 of the Mysore Act bringing it into line with the British Indian Act.

A Bill to amend the Act accordingly is proposed to be placed before the Representative Assembly and the Legislative Council at the next session. The Dewan and Second Member of Council are agreeable to the proposal.

I solicit the gracious approval of His Highness to the same.



Bangalore,
16th April 1941.

MEMBER OF COUNCIL.

Record of Cases submitted for the Orders of
His Highness the Maharaja.



Subject.

Proposal to extend the provisions of
the Mysore Factories Act and Rules to small
factories employing less than twenty persons.

SUBJECT:—

Proposal to extend the provisions of the Mysore Factories Act and Rules to small factories employing less than twenty persons.

(*)

31. All urgent or confidential files returned with His Highness' orders may, in the absence of instructions or indications to the contrary, be ordinarily circulated to the Members of Council for perusal after the issue of orders.

33. The Secretaries concerned should see that orders in the cases referred to above are issued at once and that the files are returned immediately after to the Chief Secretary for circulation to the Members.

34. In all other cases, the files will first be circulated to the Members of Council at Headquarters and then sent to the Secretariat concerned for the issue of orders.

50)

Circulated to Members of Council for perusal of His Highness orders before/after issue of orders. (Vide Rules 31, 33 and 34 of the Subsidiary Rules for the conduct of business of Council in the Manual of Council Rules and Procedure.) (*)

M. S. S. S.

Chief Secretary to Government.

Through the Secretary to Government,

Development Department.

55)

N
26/4

FIRST MEMBER OF COUNCIL.

52) *N*
27/4/41

SECOND MEMBER OF COUNCIL/on deputati

Dev. Secy. with Comptroller

53)

M
28/4/41

54)

JSC
28/4/41
N

55)

10938
26.4.41

Serial
No.

The Bill is ready for the R.A. It is for now as to who
will be in charge of the Bill in the R.A. At the
last session when the Bill was ready, the
Dev. Secy was in charge.

Secy
27.9.41

Secy
(R.A. Secy)

The Development
Secretary may be in charge

Law Secy)

BKR
27.9.41

Hm
2
28/9/41

BKR
28.9.41
Secy
28.9.41

Dev. Secy)

The Principles of the Bill were approved by the R.A.
unanimously.

The Bill will, if approved be published under
Rule 36 of the Mysore Legislation Rules.

The St. of Principles will be adopted as the
St. of Object and Reasons.

Secy
3.11.41

Law Secy) Man (be a

1 Minister
for Law)

There is some confusion in the Mysore
Legislation Rules. The R.A. discussed the matter and
the Secy will study this Mr. Secy

Act & the Object & Reasons published in
the Mysore & ~~amended~~ put up
a revised Statement of O & R

Secy
4/11

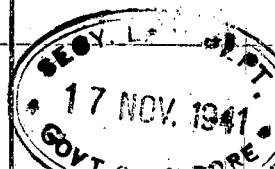
Hm
2
3.11.41

Serial
No.

DEWAN'S OFFICE
17. NOV. 1941
NO. 4190

12.11.41

OFFICE OF THE
MINISTER FOR LAW
NOV 15 1941
No. 4942



Hm
2
57.11
on
5

1 copy of the proceedings of the RA in respect of this
and a Revised Statement of Object and Re
is put up for Consideration

Dev. Secy)

Min. Law)

14.11.41
on
15.11.41

15.11

15.11.41
on
17.11.41

The question of publication under Rule 36 is for advice

17.11.41

Law Secy)

Maybe published

Decision 1

Hm
2
17.11
on
17.11.41

12/11/41

Hm
2
18.11.41

To take very early action to publish

18.11.41

Should write a draft notification
for approval
19.11.41
19.11

1 (St. of this matter is urgent
then now even further than
Revised st. of this matter
has been sent to the
the translation of the
19.11

(K.P.)

The Mysore Factories (Amendment) Bill

General & Revenue
Secretariat

27/11
File No. 27/11 of 1934-42

[App. F. III-2]

Serial
No.

The Comptroller Mysore Gazette

Notification no RL 955 dated 20.11.41

publishes the bill in the Gazette under
rule 36 of the Mysore Legislative rules

The following motions are suggested.

1. motion that the Bill published under rule 36
of the Mysore Legislative Rules be taken into
consideration by the Council at once

Mover: Minister for Law

Second: Secy. Secretary

2. motion that the Bill be passed

Mover Minister for Law

Second Secy. Secretary

Law Secy

20
20-11-41

May be approved

Minister
(for Law)
the Secy

H.M.
24.11.

W.D.
24/11/41
G.M.

28
28/11

H.M.
26.11.41.

28/11/41

Agenda

20
28.11.41

Noted & returned

20
28.11.41

The Mysore factories (amendment) Bill

File No.

of 193

General and Revenue
Secretariat

The Bill was passed by the de. Karle 11/5

Man

A Copy of the bill as passed has been
signed by the President and is submitted
herewith under S.O. 45

A. D. 7 N is put up for Consideration.

En

9/11/41

Law Secy)

7. N. recommended

Minister
in Law

7 N. signed

for

29/11

S. N. submitted.

Law Sec

Dewan)

Serial
No.

DEWAN'S OFFICE

3. JAN. 1942

NO. 5673

OFFICE OF THE
MINISTER FOR LAW

DEC 29 1941

No. 6567

Final Note by the Minister for Law.

Subject.—

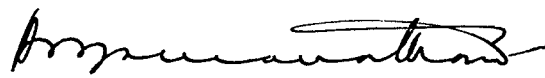
The Mysore Factories (amendment) Bill.

On the 20th April 1941, His Highness was graciously please to approve of the proposal to place the Mysore Factories (amendme Bill before the Representative Assembly and the Legislative Counc

α
The statement of principles of the Bill which was placed before the Representative Assembly in October was approved by that House unanimously. The Bill was introduced in the Legislative Council early this month and was passed by that House at one sitt A copy of the Bill ~~as~~ passed by the Legislative Council and signed by the President, in pursuance of Standing Order 44 of the Mysore Legislative Council Standing Orders is submitted herewith.

I solicit the gracious sanction of His Highness to promulgate the Bill into law.

Bangalore,
29th December 1941.


MINISTER FOR LAW.

Record of Cases submitted for the Orders of
His Highness the Maharaja.



Subject.

Promulgation into law of the Mysore
Factories (amendment) Bill.

Order.

I.R.W.
6/1/42.

34. In all other cases, the files will first be circulated to the Ministers at Headquarters and then sent to the Secretariat concerned for the issue of orders.

Hm
 17-1-42

21.1.42

20-1-62

23. 1. 42

Minister for Local Self-Govt. and Public Health. (C. S. Jeyaraj)

Law Seey with Compliments.

23/1/42

1
Hm
2
23.1.42

J 2 c 54-6

Tele. { Phone No. 2004
Grams--INDUSCOM.

In reply please quote
number, date & short title.

GOVERNMENT OF MYSORE

DEPARTMENT OF INDUSTRIES AND COMMERCE.



FROM B.G.A.Mudaliar, Esq., B.A., B.Sc., A.M.I.Mech.E.,
Director of Industries & Commerce in Mysore &
Chief Inspector of Factories in Mysore,
Bangalore.



To E.Noronha, Esq., M.A.,
Secretary to the Government of Mysore,
Development Department,
Bangalore.

No.F/55 /40-41.

Enclosures

4

Dated 11th August 1940.

19.8.40

SIR,

Subject:- Extension of the Provisions of the Mysore
Factories Act and the Rules thereunder
to small factories employing less than
20 persons.

I have the honor to state that at present, only such of the factories as are employing 20 persons or more and "in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on" are brought within the purview of the Mysore Factories Act and the Rules framed thereunder (Section 2 (J) of the Act). But there are a number of small factories in the State in which manufacturing processes are being carried on with the aid of power and which are not classed as registered factories as the number of worker employed in such factories is less than 20. Most of such factories are carrying on the operations under very unsatisfactory conditions such as, unrestricted working hours, badly ventilated and unsafe rooms, insanitary premises etc. Such conditions generally prevail in rice mills, flour mills, printing presses, beedi factories, ginning and pressing factories, metal works, etc.

2. With a view to protect the health and secure the safety of operatives and preventing employment of children in such factories that are not subject to the provisions of the Factories Act, the Government of India introduced in the Legislature

Assembly

Legislative Assembly on the 16th February 1940, a bill to amend the Factories Act of 1934, by an Act entitled ~~the~~ "The Factories (Amendment) Act, 1940. a copy of which is enclosed herein for the information of Government

3. The Bombay Government have, by a notification dated 8th May 1939, copy enclosed, extended the provisions of the Factories Act relating to health, safety and working hours etc., to Beedi factories in the Province of Bombay.

On receipt of orders of the Government on my recommendation, I shall submit the form of the Notification to be issued by Government.

I have the honor to be,

S i r,

Your most obedient servant,

B. H. M. Salim

Director &
Chief Inspector of Factories in Mysore.

THE FACTORIES (AMENDMENT) BILL.

A bill further to amend the Factories Act, 1934, was introduced in the Legislative Assembly on the 16th February 1940. The following is the text of the Bill together with the Statement of objects and reasons:-

L.A Bill No.12 of 1

A bill further to amend the Factories Act 1934, for a certain purpose:

WHEREAS it is expedient to make provision for regulating labour in certain small factories, and for that purpose further to amend the Factories Act 1934, (XXV of 1934);

It is hereby enacted as follows:-

1. Short title.- This Act may be called the Factories (Amendment) Act, ~~1940~~ 1940.

2. Insertion of new Chapter V A in Act XXV of 1934 - After Chapter V of the Factories Act, 1934, (hereinafter referred to as the said Act), the following Chapter shall be inserted, namely:-

"CHAPTER V A."

Small Factories.

59A. Small Factories.- (1) In this Act, unless there is anything ~~repugnant~~ repugnant in the subject or context, "small factory" means any premises including the precincts thereof whereon ten or more but less than twenty workers are working or were working on any day of the preceding six months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, but does not include a mine subject to the operation of the Indian Mines Act, 1923 (IV of 1923).

Provided that the Provincial Government may by notification in the official Gazette, declare any premises to be a small factory, notwithstanding that less than ten workers are working thereon, if such premises would otherwise be a small factory.

2. For the purposes of this Chapter an adolescent holding a certificate granted under this Act to work as an adult shall be deemed to be an adult.

59B. Power to require statement from occupiers of small factories.

AN INSPECTOR. MAY. BY NOTICE IN WRITING. DIRECT THE occupier of a small factory to state in writing, ~~XXXXXXXXXXXXXXXXXXXX~~ ~~XXXXXXXXXXXX~~ within thirty days from the receipt of the notice either

a) that he is not employed
who is not, or is not deemed to be, an adult and that he will not employ therein any such worker without giving notice in accordance with the provisions of section 59C, or

- (i) the name of the small factory and its situation,
- (ii) the address to which communications relating to the small factory should be sent,
- (iii) the nature of the manufacturing processes carried on, or to be carried on, in the small factory,
- (v) the nature and amount of the power used or to be used, and

- (v) the name of the person who shall be the manager of the small factory for the purpose of this Act.

3. Occupiers of, small factories to give notice of employment child labour:- The occupier of a small factory in respect of which notice under section 59B has once been issued. shall not. after expiry of thirty days from the receipt of such notice, employ therein any worker who is not, or is not deemed to be, an adult

or is, not deemed to be, an adult is employed; and in the provisions hereby made so applicable every reference to a factory shall be deemed to include, so far as may be, a reference to a small factory.

2). The aforesaid provisions shall cease to apply to a small factory on the expiry of six months from the receipt by the Inspector of a notice in writing from the occupier that he has ceased to employ therein any worker who is not, or is not deemed to be, an adult, unless any such worker is employed therein on any day of the said six months:

Provided that if any such worker is thereafter employed in the small factory, the said provisions of this Act shall again apply thereto.

59E. Certain other provisions of law not barred:-

The provisions of this Chapter shall be in addition to, and not in derogation of, the provisions of section 9 and of the Employment of Children Act, 1938 (XXVI of 1938)."

3. Amendment of section 62 of Act XXV of 1934.-

In section 62 of the said Act, the word and figure "section 9" the words, figures and letters" or an occupier of a small factory who fails to furnish any statement in accordance with section 59B or to give any notice required by section 59C" shall be inserted.

STATEMENT OF OBJECTS AND REASONS.

The Royal Commission on Labour drew attention to the desirability of regulating the working of small power factories which were outside the scope of the Factories Act, in respect of matters relating to health and safety. They also pointed out that the age and the hours of labour of children in such factories were unregulated. The Bill is designed to prevent the exposure of children to the risk of exploitation and employment in unhealthy and dangerous

dangerous condition. It extends the provisions of the Factories Act, dealing with health, safety, children and registration, ~~and~~ to power factories employing from 10 to 19 persons, if any of those persons is not qualified to work as an adult; Provincial Governments who have been consulted, are given full power to extend these provisions to power factories employing less than 10 persons, if any of those persons is not qualified to work as an adult.

POLITICAL AND SERVICES DEPARTMENT.

Bombay Castle, 8th May 1939.

No.2579/34.- In exercise of the powers conferred by sections (1) and (2) of section 5 of the Factories Act, 1934 (XXV of 1934), (hereinafter referred to as "the said Act"), the Government of Bombay is pleased to declare the class of places in the Province of Bombay specified in column 1 of the Schedule hereto annexed, wherein on any one day of the twelve months preceding the date of this Notification, the number of workers mentioned against them in column 2 of the said Schedule was employed, to be factories for the purposes of the provisions of the said Act specified against them in column 3 thereof.

FACTORIES
ACT, XXV of
1934.

Checking sweated labour in small factories.

It is reported that an important decision in the interests of labour has been taken by the Governor of the United Provinces and that a notification will shortly be issued declaring certain factories employing 10 persons or more as subject to the provisions of the Factories Act.

An enquiry into allegations about sweated labour was instituted at the instance of Dr. Katju, the ex-minister for Industries, and the question has been thoroughly examined during the past two years. It has been found that there are hundreds of small factories in the province where labour is sweated. There are no fixed hours of work and health conditions are deplorable. Such concerns employ less than 20 hands and are therefore exempt from the supervision of the Labour Inspectorate.

The Factories Act empowers the provincial Government to extend its scope by a local notification. Accordingly the Governor has stated, decided to extend the provisions of the Act to the following classes of factories employing 10 or more hands:-

"Printing presses, motor garages, engineering works, glass grinding factories, ginning and pressing factories, ice factories and brass and metal works".

It has been calculated that over 4,000 hands will be governed by the notification.

Extract from the proceedings of the meeting of the
Labour Welfare Board held on 3-6-1940.

Subject:- Extension of the Factories Act to all Factories
employing 10 persons and more.

1. The Chairman of the Welfare Board said for the
information of members that the Government of the United
Provinces had issued a Notification in this regard as it
was found that a good many small factories had been working
under very unsatisfactory conditions detrimental to the
health and safety of employees, that in Mysore, Factories
employing 20 persons or more and using power are brought
under the purview of the Mysore Factories Act and that there
were many small factories, such as, oil expellers, rice
and flour mills etc., which did not come under the
Factories Act because they were not employing more than
20 persons, though power was being used.

2. The Board was of the unanimous opinion that it is
very desirable to extend the Mysore Factories Act to
small factories also employing 10 persons and more and
using power, in the interest of the health and safety of
operatives".

"Copy"



Director &
Chief Inspector of Factories in Mysore.
11-8-1940.

Appendix F G—1]

SUBJECT

Enforcing the provisions of the
Mysore Factories Act and the Rules
Small factories employing less than
50 persons

Section 12c.

File No. 54-40.

Serial No. 2.

Diary No. of letter replied to.....

No. D 2051

To

The District Officer

General and Revenue Secretariat

()

the 19

Sir,

Date of issue.....

7/11/40

Signed by

[Signature]

I am in reply to
your letter No. F. 155/40
dated the 19th August, 1940
on the above subject,
I am directed to request
you to be so good as to
submit for consideration
of Government a draft
amendment of the
Factories Act.

List of enclosures

Copied by

Examined by

I have
[Signature]

Tele { Phone No. 2004
Grams--INDUSCOM.

In reply please quote
number, date & short title.

GOVERNMENT OF MYSORE
DEPARTMENT OF INDUSTRIES AND COMMERCE.

FROM

B.G.A.Mudaliar, Esq., B.A., B.Sc., A.M.I. Mech. E.,
Director of Industries and Commerce in Mysore, Bangalore

TO

Charles E. Noronha, Esquire, M.A.,
Secretary to the Government of Mysore
Development Department, Bangalore.

No. F.155/40-41

Enclosures

2

Dated

3rd December 1940

5th

SIR,

Subject:-- Extension of the Provisions of the
Mysore Factories Act to small
Factories employing 10 or more persons

With reference to your letter No.D.2051/I.&C.54-40-2 dated 7th November 1940 calling for a draft amendment in connection with the extension of the provisions of the Mysore Factories Act to small factories employing less than 20 persons, I have the honour to state that sub-section (1) of section 5 of the Mysore Factories Act confers powers on Government to declare premises whereon or within the precincts whereof, on any one day of the 12 months preceding the Notification, ten or more workers were employed and in which manufacturing process is carried on with or without the aid of power. As stated in the last para of my letter referred to in your letter above, only a notification in exercise of the powers conferred by Section 5 (1) of the Act in this behalf would be enough to meet the object in view and no amendment to section 2 (j) of the Act is necessary at this stage.

I submit herewith, draft notifications, for the considera-

I have the honour to be
Sir
Your most obedient servant.

B.G.A.M.
DIRECTOR.

NOTIFICATION.

In exercise of the powers conferred by sub-Section (1) of Section 5 of the Mysore Factories Act of 1936 (I of 1936), the Government of His Highness the Maharaja of Mysore is pleased to declare the class of places in Mysore specified in column 1 of the Schedule hereto annexed, wherein on any one day of the twelve months preceding the date of this notification, the number of workers mentioned against them in column 2 of the said schedule was employed, to be factories for the purposes of the provisions of the said Act specified against them in column 3 thereof.

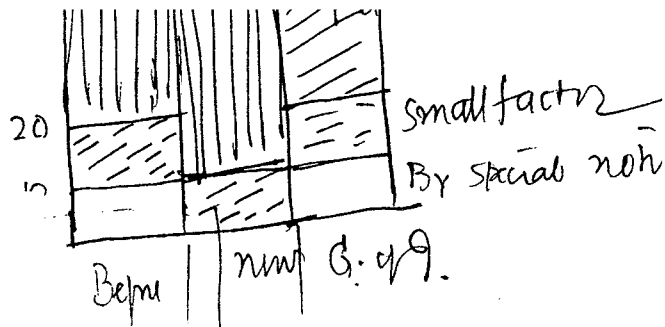
The Schedule

Class of places	Number of workers employed.	Provisions of the said Act for which they will be factories.
Places wherein the processes of making 'bidis' from tobacco is carried on without the aid of power.	10 or more.	Sections 9, 30, 36, 39(1) (39(2) so far as it relates to Sections 36, 39(3) to (8), 40, 41, 42 76 and 77.

Bangalore
3.xii.1940

B. H. M. Sahar
Director of Industries
and Commerce

6/



By special
non - with v
without power

Statement of objects and reasons.

At present, the provision of the Mysore Factories Act and the Rules thereunder are made applicable only to factories employing 20 or more workers and using power. It is noticed that there are a number of power factories employing 10 or more workers which are working under unsatisfactory conditions. It has also come to my notice that child labour is being employed in most of these factories without restriction on working hours. No action has been possible in the case of such factories as they do not come within the definition of a "Factory" as at present laid down in Section 2(j) of the Act.

The Royal Commission on Labour drew attention to the desirability of regulating the working of power factories not coming within the scope of the Factories Act, particularly in respect of matters relating to health, safety and working hours of employees. They also ~~draw~~ pointed out that the age and hours of labour of children in such factories were unregulated.

The Bill is designed to prevent the exposure of adolescent and adult workers and children to the risk of exploitation and employment in unhealthy and dangerous condition, *in power factories not subject at present to the Factories Act*, by bringing all such factories within the scope of the Act. It may be mentioned in this connection that the Indian Act has been suitably amended to bring all power factories --- employing 10 or more workers within the purview of the Act.

Bangalore
21.1.1941


Director of Industries and
Commerce in Mysore

9

Existing Section

(4) "Factory" means any premises including the precincts thereof whereon 20 or more workers are working, or were working on any day of the preceding 12 months, and in any part of which a manufacturing process is being carried on with the aid of power, or is ordinarily so carried on, but does not include a Mine subject to the operation of the Mysore Mines Regulation, 1906.

5. (1) Notwithstanding anything contained in Clause (j) of Section 2, the Government may, by notification in the official Gazette, declare any premises whereon or within the precincts whereof a manufacturing process is carried on, whether with or without the aid of power, and whereon or within the precincts whereof, on any one day of the twelve months preceding the notification, ten or more workers were employed, to be a factory for all or any of the purposes of this Act.

5. (2) A notification under sub-section (1) may be made in respect of any specified premises or class of premises.

" (3) A Notification under sub-section (1) shall cease to have effect in respect of any premises after the lapse of twelve months during which not more than nine workers were employed thereon on any day.

(Page 2 - Printed copy
of the Act)

Amendment proposed

Substitute after whereon
"ten" for "twenty".

After "~~preceding the Notifi-
cation~~" substitute "~~less
than ten~~" for "~~ten or more~~,"
and Delete the words "on any
one day of the twelve months
preceding the notification"
occurring after "whereof" and

Substitute the words
"less than ten" for "ten
or more" occurring in
lines 7 and 8 of Section 5(1)
of the existing Act.

Nil

To be deleted completely. (as
it is unnecessary in view of
the fact that in subsection
(1) of section 5 above pro-
vision has been made for
declaring any premises employ-
ing less than ten workers to
be a factory, wherever necessary,
by Government notification)

Second as amended

"Factory" means any premises including the pre-
cincts thereof whereon ten or more workers are
working on any day of the preceding 12 months,
and in any part of which a manufacturing process
is being carried on with the aid of power, or is
ordinarily so carried on, but does not include a
mine subject to the operation of the Mysore
Mines Regulation 1906.

Notwithstanding anything contained in Clause (J)
of section 2, the Government may by notification
in the official Gazette declare any premises
whereon or within the precincts whereof a manu-
facturing processes is carried on, whether with
or without the aid of power, and whereon or with-
in the precincts whereof, less than ten workers
are employed, to be a factory for all or any of
the purposes of the Act.

Same as at present.


Director of Industries

S

Bill to amend the Mysore Factories Act, 1936

* * * *

Whereas it is ~~expedient~~ to amend the Mysore Factories Act, 1936^{4/9} is hereby enacted as follows:--

This Act may be called the Mysore Factories (Amendment) Act 1941.

2. In Section 2 of the Mysore Factories Act, 1936, (hereinafter referred to as the said Act),

For clause (j) of Section 2 of the Act, the following clause shall be substituted, namely:--

*Schedule A 2 (f)
in Sub-sec 2, Act
I, 438.* "(J) 'Factory' means any premises including the precincts thereof whereon ten or more workers are working or were working on any day of the preceding 12 months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on,

but does not include a mine subject to the operation of the Mysore Mines ^{Act} Regulation, 1906;

given said Act
3(a) For Sub-Section (1) of Section 5, the following sub-section shall be substituted, namely --

"(1) Notwithstanding anything contained in clause (j) of Section 2, the Government may, by notification in the official Gazette declare any premises whereon or within the precincts whereof a manufacturing process is carried on, whether with or without the Aid of Power, and whereon or within the precincts whereof, less than 10 workers are employed, to be a factory for all or any of the purposes of this Act.

~~X~~ (b) Sub-Section 3 of Section 5 of the Act shall be omitted.

exploitation and employment in unhealthy and dangerous condition; in power factories not subject at present to the Factories Act, by bringing all such factories within the scope of the Act. It may be mentioned in this connection that the Indian Act has been suitably amended to bring all power factories employing 10 or more workers within the purview of the Act.

A Bill to amend the Mysore Factories Act, 1936.

Whereas it is expedient to amend the Factories Act, 1936;

It is hereby enacted as follows

1. This Act may be called the Mysore Factories (amendment) Act, 194 .

2. For clause (j) of section 2 of the Mysore Factories Act, 1936 (hereinafter referred to as the said Act), the following clause shall be substituted, namely:—

“(j) ‘factory’ means any premises including the precincts thereof wherein 10 or more workers are working or were working on any day of the preceding 12 months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on;

but does not include a Mine subject to the operation of the Mysore Mines Act, 1906;

3. (a) For sub-section (1) of section 5 of the said Act, the following sub-section shall be substituted namely:

Notwithstanding anything contained in clause (j) of section 2, the Government may, by notification in the official Gazette declare any premises whereon or within the precincts whereof a manufacturing process is carried on, whether with or without the aid of power, and whereon or within the precincts whereof, less than 10 workers are employed, to be a factory for all or any of the purposes of this Act.”

b) Sub-section (3) of section 5 of the Act, shall be omitted.

STATEMENT OF PRINCIPLES OF THE BILL TO AMEND THE COTTON GINNING AND PRESSING FACTORIES ACT, 1929.

The Cotton Ginning and Pressing Factories Act was passed in 1929 on the lines of the corresponding British Indian Act of 1925. In British India, as a result of the recommendations of the Indian Central Cotton Committee, certain amendments were made in 1939. The present Bill seeks to incorporate them in the Mysore Act.

The amendment proposed to section 9 is intended to meet complaints that in certain cotton ginning and pressing factories, the construction of which was commenced or completed before the Act came into operation, alterations or alterations are made which are not in accordance with the prescribed specifications. By this amendment, the factory owner making alterations or alterations to his factory has to conform to the requirements of sub-section (1) of section 9.

person to produce any documents in his custody or power relating to the insolvent or to his dealings or property.

(2) If any person so summoned, after having been tendered a reasonable sum, refuses to come before the Court at the time appointed, or refuses to produce any such document, having no lawful impediment made known to and allowed by the Court, the Court may, by warrant, cause him to be apprehended and brought up for examination.

The Court may examine any person so brought before it concerning the insolvent, his dealings or property.

GOVERNMENT OF HIS HIGHNESS THE MAHARAJA OF MYSORE.

No. *R.L. 955*

General and Revenue Secretariat,

Dated Bangalore, *20-11-41*

NOTIFICATION.

Under the provisions of rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the gazette of the accompanying *Mysore Factories (Amendment) Bill*, together with the statement of objects and reasons.

By Order,

For *9.11.41*
Secretary to Government,
Don Law Department.

To

The Compiler, Mysore Gazette, for publication in Part IV of the Gazette and supply of *250* copies to the Secretariat.

Memo No. *R.L. 956*.

Dated Bangalore, *20.11.1941*.

Copy of the above is forwarded with compliments to the Secretary, Legislative Council, for information.

By Order,

For Secretary to Government,

Don Law Department.

their Factories Act of 1934.

It has been considered desirable that ^{should be made on somewhat similar lines} ~~a similar amendments in the law should be~~ effected in Mysore. [^]also. This Bill is intended to effect the necessary changes. The definition of a factory is proposed to be enlarged so as to include factories where 10 or more workers are engaged. The power conferred on the Government to extend the provisions of the Factories Act to concerns which do not fall within the definition of a factory is also proposed to be extended so as to empower Government to apply the provisions of the Act to factories whereon less than 10 workers are employed on any one day in the year.

NOTIFICATION.

No. R. L. 955 dated Bangalore, the 20th November 1941.

Under the provisions of rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the Gazette of the accompanying Mysore Factories (Amendment) Bill, together with the statement of objects and reasons.

By Order,

H. V. NARAYANA RAO,

*Secretary to Government,
Law Department.*

THE MYSORE FACTORIES (AMENDMENT) BILL.

Statement of Objects and Reasons.

The provisions of the Mysore Factories Act, 1936, which is modelled on the corresponding British Indian Act of 1934, apply only to factories whereon 20 or more workers are working on any day in a year and on any part of which a manufacturing process is being carried on with the aid of power [section 2 (j)]. Under section 5 of the said Act, Government are empowered to declare any premises where 10 or more workers are employed to be a factory for all or any of the purposes of the Act.

It has been noticed that there are a number of factories which are outside the scope of the Factories Act and where the working conditions are very unsatisfactory. Child labour is being employed in many of these concerns without restriction on working conditions or considerations of health and safety. The Royal Commission on Labour drew attention to the desirability of regulating the working of such small power factories. With a view to prevent the exposure of children to the risk of exploitation and employment in unhealthy and dangerous conditions and generally to bring such factories under the restrictions

imposed by the Factories Act, an Act has been passed in British India in 1940 to amend their Factories Act of 1934.

It has been considered desirable that amendment should be made on somewhat similar lines in the law in Mysore. This Bill is intended to effect the necessary changes. The definition of a factory is proposed to be enlarged so as to include factories where 10 or more workers are engaged. The power conferred on the Government to extend the provisions of the Factories Act to concerns which do not fall within the definition of a factory is also proposed to be extended so as to empower Government to apply the provisions of the Act to factories whereon less than 10 workers are employed on any one day in the year.

A Bill to amend the Mysore Factories Act, 1936.

Whereas it is expedient to amend the Mysore Factories Act, 1936;

It is hereby enacted as follows :-

1. This Act may be called the Mysore Factories (amendment) Act, 194

2. For clause (j) of section 2 of the Mysore Factories Act, 1936 (hereinafter referred to as the said Act) the following clause shall be substituted, namely :—

“(j) ‘factory’ means any premises including the precincts thereof wherein 10 or more workers are working or were working on any day of the preceding 12 months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on,

but does not include a Mine subject to the operation of the Mysore Mines Act, 1906;”

3. (a) For sub-section (1) of section 5 of the said Act, the following sub-section shall be substituted, namely:—

“(1) Notwithstanding anything contained in clause (j) of section 2, the Government may, by notification in the official Gazette declare

any premises whereon or within the precincts whereof a manufacturing process is carried on, whether with or without the aid of power, and whereon or within the precincts whereof, less than 10 workers are employed, to be a factory for all or any of the purposes of this Act.”

- (b) Sub-section (3) of section 5 of the Act, shall be omitted.

NOTIFICATION.

No. R. L. 955 dated Bangalore, the 20th November 1941.

Under the provisions of rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the Gazette of the accompanying Mysore Factories (Amendment) Bill, together with the statement of objects and reasons.

By Order,

H. V. NARAYANA RAO,

*Secretary to Government,
Law Department.*

THE MYSORE FACTORIES (AMENDMENT) BILL.

Statement of Objects and Reasons.

The provisions of the Mysore Factories Act, 1936, which is modelled on the corresponding British Indian Act of 1934, apply only to factories whereon 20 or more workers are working on any day in a year and on any part of which a manufacturing process is being carried on with the aid of power [section 2 (j)]. Under section 5 of the said Act, Government are empowered to declare any premises where 10 or more workers are employed to be a factory for all or any of the purposes of the Act.

It has been noticed that there are a number of factories which are outside the scope of the Factories Act and where the working conditions are very unsatisfactory. Child labour is being employed in many of these concerns without restriction on working conditions or considerations of health and safety. The Royal Commission on Labour drew attention to the desirability of regulating the working of such small power factories. With a view to prevent the exposure of children to the risk of exploitation and employment in unhealthy and dangerous conditions and generally to bring such factories under the restrictions

imposed by the Factories Act, an Act has been passed in British India in 1946 to amend their Factories Act of 1934.

It has been considered desirable that amendments should be made on somewhat similar lines in the law in Mysore. This Bill is intended to effect the necessary changes. The definition of a factory is proposed to be enlarged so as to include factories where 10 or more workers are engaged. The power conferred on the Government to extend the provisions of the Factories Act to concerns which do not fall within the definition of a factory is also proposed to be extended so as to empower Government to apply the provisions of the Act to factories whereon less than 10 workers are employed on any one day in the year.

A Bill to amend the Mysore Factories Act, 1936.

Whereas it is expedient to amend the Mysore Factories Act, 1936;

It is hereby enacted as follows :—

Short title.

1. This Act may be called the Mysore Factories (amendment) Act, 194

Amendment
of section 2,
Act I of 1936.

2. For clause (j) of section 2 of the Mysore Factories Act, 1936 (hereinafter referred to as the said Act) the following clause shall be substituted, namely :—

“(j) ‘factory’ means any premises including the precincts thereof wherein 10 or more workers are working or were working on any day of the preceding 12 months and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on,

but does not include a Mine subject to the operation of the Mysore Mines Act, 1906;”

Amendment
of section 5,
Act I of 1936.

3. (a) For sub-section (1) of section 5 of the said Act, the following sub-section shall be substituted, namely :—

“(1) Notwithstanding anything contained in clause (j) of section 2, the Government may, by notification in the official Gazette declare

any premises whereon or within the precincts whereof a manufacturing process is carried on, whether with or without the aid of power, and whereon or within the precincts whereof, less than 10 workers are employed, to be a factory for all or any of the purposes of this Act."

Sub-section (3) of section 5 of the Act, shall be omitted.

Bill as passed by the Legislative Council

J. H. Chaudrasekharaiah
26/12/41

President

Legislative Council

Section. *Legis*
File No. *36-41 41-41*
Serial No.

Diary No. of letter replied to.....

Proceedings of the Government of
H. H. the Maharaja of Mysore.

Order No. *R.L. 132.a...*

GENERAL AND REVENUE SECRETARIAT,

the.....191

Ordered that the accompanying *Act*
to amend the Mysore Factories Act,

which received the assent of His Hig-
ness the Maharaja, on the.....*6th*.....

Date of issue.....

day of *January*.....19*42*.

Signed by.....

be published as Regulation No. *X*.....
of 19*42* in the *Mysore Gazette* for gene-
ral information.

May this be—

H. H.
27.1.42
Secretary to Government.
Law Department

(i) Printed?

To

(ii) Treated as a standing order?

(iii) Published in the "Gazette" English
part?

The Compiler, *Mysore Gazette*, for
publication in Part *III* of the Gazette, in
English and Kannada and for supply of *Spa*
.....spare copies in English, and *as 1*
.....spare copies in Kannada to *6rdus*
this office, and.....spare copies
in English and.....spare copies
in Kannada to the Curator, Government
Central Book Depot, Bangalore. Proofs
should be sent to this office for approval

(iv) Translated?

(v) Placed at the disposal of the Press?

(vi) Published in the "Gazette" Kannada

NOTIFICATION.

No. R. L. 955 dated Bangalore, the 20th November 1941.

Under the provisions of rule 36 of the Mysore Legislative Rules, 1941, the Dewan has been pleased to order the publication in the Gazette of the accompanying Mysore Factories (Amendment) Bill, together with the statement of objects and reasons.

By Order,

H. V. NARAYANA RAO,

*Secretary to Government,
Law Department.*

THE MYSORE FACTORIES (AMENDMENT) BILL.

Statement of Objects and Reasons.

The provisions of the Mysore Factories Act, 1936, is modelled on the corresponding British Indian Act of 1934, apply only to factories whereon 20 or more workers are working on any day in a year and on any part of which a manufacturing process is being carried on with the aid of power [section 2 (j)]. Under section 5 of the said Act, Government are empowered to declare any premises where 10 or more workers are employed to be a factory for all or any of the purposes of the Act.

It has been noticed that there are a number of factories which are outside the scope of the Factories Act and where the working conditions are very unsatisfactory. Child labour is being employed in many of these concerns without restriction on working conditions or considerations of health and safety. The Royal Commission on Labour drew attention to the desirability of regulating the working of such small power factories. With a view to prevent the exposure of children to the risk of exploitation and employment in unhealthy and dangerous conditions and generally to bring such factories under the restrictions

imposed by the Factories Act, an Act has been passed in British India in 1940 to amend their Factories Act of 1934.

It has been considered desirable that amendment should be made on somewhat similar lines in the Mysore. This Bill is intended to effect the necessary changes. The definition of a factory is proposed to be enlarged so as to include factories where 10 or more workers are engaged. The power conferred on Government to extend the provisions of the Factories Act to concerns which do not fall within the definition of a factory is also proposed to be extended so as to empower Government to apply the provisions of the Act to factories whereon less than 10 workers are employed on any one day in the year.

*Act no. 17 of 1942 -
The Mysore Factories (Amendment) Act,*

Act A Bill to amend the Mysore Factories Act, 1936.

enacted by His Highness the Maharaja on the 6th day of January 1942
Whereas it is expedient to amend the Mysore Factories Act, 1936;

It is hereby enacted as follows:

1. This Act may be called the Mysore Factories (Amendment) Act, 1942.

2. For clause (j) of section 2 of the Mysore Factories Act, 1936 (hereinafter referred to as the said Act) the following clause shall be substituted, namely:—

“(j) ‘factory’ means any premises including precincts thereof wherein 10 or more workers are employed or were working on any day of the preceding 12 months and in any part of which a manufacturing process is carried on with the aid of power or is ordinarily so

any premises whereon or within the precincts whereof a manufacturing process is carried on, whether with or without the aid of power, and whereon or within the precincts whereof, less than 10 workers are employed, to be a factory for all or any of the purposes of this Act."

- (b) Sub-section (3) of section 5 of the Act, shall be omitted.

NOTIFICATION.

*Order No. R. L. 1320—Legis. 41-41-1, dated Bangalore,
the 27th January 1942.*

ORDERED that the accompanying Act to amend the Mysore Factories Act, 1936, which received the assent of His Highness the Maharaja, on the 6th day of January 1942, be published as Act No. X of 1942 in the *Mysore Gazette* for general information.

H. V. NARAYANA RAO,
*Secretary to Government,
Law Department.*

ACT No. X OF 1942.

THE MYSORE FACTORIES (AMENDMENT) ACT, 1942.

An Act to amend the Mysore Factories Act, 1936.

*(Received the assent of His Highness the Maharaja
on the 6th day of January 1942.)*

WHEREAS it is expedient to amend the Mysore Factories Act, 1936;

It is hereby enacted as follows:—

1. This Act may be called the Mysore Factories (Amendment) Act, 1942. Short title.

2. For clause (j) of section 2 of the Mysore Factories Act, 1936 (hereinafter referred to as the said Act), the following clause shall be substituted, namely,— Amendment
of section 2,
Act I of 1936.

“(j) ‘factory’ means any premises including the precincts thereof wherein ten or more workers are working or were working on any day of the preceding twelve months, and in any part of which a manufacturing process is being carried on with the aid of power or is ordinarily so carried on,

but does not include a mine subject to the operation of the Mysore Mines Act, 1906 ;”

Amendment
of section 6,
Act I of 1936.

3. (a) For sub-section (1) of section 5 of the said Act, the following sub-section shall be substituted, namely :—

“(1) Notwithstanding anything contained in clause (j) of section 2, the Government may, by notification in the official Gazette declare any premises whereon or within the precinct whereof a manufacturing process is carried on whether with or without the aid of power, and whereon or within the precincts whereof, less than ten workers are employed, to be a factory for all or any of the purposes of this Act.”

Sub-section (3) of section 5 of the Act, shall be

REPRESENTATIVE ASSEMBLY
& LEGISLATIVE COUNCIL OFFICE.

Dated 36

R.A. Proceedings re Jutson AS

Plan

Don

Herbert M. Gubins

Capt
12/11/41.

11. Statement of principles of the Bill to amend
the Mysore Factories Act, 1936.

The SECRETARY to GOVERNMENT, DEVELOPMENT DEPARTMENT
(Mr. V. Vedavyasacharya) explained the ~~general~~ principles
of the Bill as follows:--

Mr. K. CHENGALARAAYA REDDY wanted to know the reason why sub-section (3) of section 5 of the Act should be omitted.

The MINISTER for LAW (Rajasevaprakashta A.V. Ramanathan) explained that if a concern employed 20 or more workmen it would come under the definition of a factory ~~xxxxxxx~~ ~~xxxxxx~~ and other concerns would not come under it in the usual course. The object of the amending bill was that even a concern which employed less than 20 workmen could be declared to be a factory if Government were satisfied that due to some special reasons their interference was called for. If that general principle was agreed to omission of Section 5(1) would become a consequential amendment.

Mr. T. SIDDABASAPPA thought that the minimum number of 20 was quite allright and that the amendment reducing the limit to 10 was not called for.

Mr. N. RAMA RAO expressed his surprise at the enormous powers that Government proposed to assume under section 5(1). They could, by a mere notification in the Gazette declare any concern, however small, to be a factory, irrespective of the minimum number of workers therein. He wondered whether this or any other Government had taken such unlimited power whether under this or any other law.

Mr. A.V. RAMANATHAN explained that it was not all concerns that could be declared to be factories, even in future. It was necessary that ~~xxxxx~~^{they} should be engaged in manufacturing process.

Mr. N. RAMA RAO said that that did not improve matters in any sense. "Manufacture" meant "hand-made", and, at that rate, even the preparation of eatables could be considered as involving a process of manufacture.

The PRESIDENT stated that in such cases ~~the applica-~~
conferred by
~~tion of~~ this law was ~~least likely~~, *could not be invol*

Mr. L. NAHAI fully agreed in that view. But Government could not be sure that nobody would take the view suggested by him. Generally speaking, such undefined powers were apt to be ~~xxx~~ abused and for that reason, the amendment was dangerous.

Mr. KHALI SINGH YADAV SAHIB suggested that instead of 'Less than 10 workers' in section 5(1) it should be 'not less than 10 workers.'

Mr. JATIN CHANDRA NAHAI supported this view.

The PRESIDENT explained that the section would remain quite the same as before, except for the substitution of the figure '10' for '20'.

Mr. KHALI SINGH YADAV SAHIB enquired if the Act would apply to places where sweets etc., were manufactured in Municipalities.

The PRESIDENT replied in the negative.

Mr. L. NAHAI also was of opinion that Government were proposing to assume unlimited powers under the proposed amendment. Even the condition that concerns worked by electric power were alone going to be treated as factories was not stipulated. Even if the number of employees was less than 10, Government might simply issue a notification and declare any concern to be a factory. Such an unrestricted power was unheard of so far, and a responsible House of Legislature like the Representative Assembly would not be justified in lending support to a proposal to place such powers in the hands of Government. At that rate, in Chennapatna for

...ample, every House could easily be declared a factory and all the workers brought under the operation of the Act. He was definitely opposed to the amendment of Section 2 proposed.

Mr. Bhupala ^m N. CHANDRASEKHARAIYA stated that if the words 'with or without ^{the aid of} power' occurring in the sub-section were deleted he would have no objection to the amendment being passed.

Mr. A.V. RAMAIAH said that he was somewhat surprised at certain ~~xxxxxx~~ members remarking that ~~the~~ legislation similar to this was not in vogue in any part of the world and would assure those ~~xxxxxx~~ members that ~~the~~ similar legislation did exist in British India. In the opinion of some of the powers in question were too vast; all the same, they were powers vested in other Governments already. The only change now proposed was to substitute '10' for '20'. Further, it was not meant to apply to all concerns, but to those which, in the opinion of Government required to be declared as factories in specific cases and for specific purposes. Thirdly manufacturing process must be involved and what exactly was meant by "Manufacturing process," had also been clearly defined. After all it was designed to be good to the employees themselves and not merely ~~with a view to~~ placing ^e some extra powers in the hands of Government. In these circumstances, he ~~expected~~ ^{hoped} that unanimous support could be given to the Bill by the House.

Mr. JATEBE NAIK observed that in the beginning the Bill might work all right, but as time went on, subordinate officials might get it applied even to grocers' shops.

Mr. A.V. RAMAIAH replied that there was no reason to think that things were going to be so bad as that.

in British India even when Mr. N. Rama Rao, who seemed opposed to the amendment under discussion, was Director of Industries and Commerce in Mysore.

Mr. N. RAMA RAO stated that the particular section to which he had objected was not in existence when he was Director of Industries and Commerce.

The PRESIDENT assured Mr. Rama Rao that it was. However, if practical difficulties were experienced, in ^{the} working of the Act, it could be suitably modified later on.

The ~~general~~ principles of the Bill were thereupon put to vote and passed unanimously.

Mr. S.C. WALLIAH, at this stage requested that as both the days originally meant for private business, had already been taken up for Government business, the session be extended correspondingly, the last two days being set apart for representations.

The PRESIDENT replied that the suggestion would be noted.

Mr. K. KASTURILAL enquired when the constitution of the House Committee would be completed and helped to begin to function.

The PRESIDENT replied that in addition to the elected members, he had requested the Minister for Education to be Chairman, Messrs. N. Rama Rao and S.C. Beveraj Urs to work as additional members of the House Committee and that if they agreed and the Chairman would call for a meeting, the Committee might begin to function almost immediately.

At 5-10 P.M. the house rose for the day to meet again at 12 Noon on Monday the 6th October 1941.

A

BILL

Further to amend the Factories Act, 1934.

XXV of 1934 WHEREAS it is expedient further to amend the Factories Act, 1934, for the purpose hereinafter appearing ;

It is hereby enacted as follows :—

1. This Act may be called the Factories (Amendment) Act, 1941. Short title.

XXV of 1934. 2. For section 5 of the Factories Act, 1934, the following section shall be substituted, namely :— Substitution of new section for section 5, Act XXV of 1934.

“ 5. (1) The Provincial Government may, by notification in the official Gazette, declare that all or any of the provisions of this Act applicable to factories shall apply to any place wherein a manufacturing process is being carried on or is ordinarily carried on whether with or without the use of power whenever ten or more workers are working therein or have worked therein on any one day of the twelve months immediately preceding. Power to apply provisions applicable to factories to certain other places.

(2) A notification under sub-section (1) may be made in respect of any one such place or in respect of any class of such places or generally in respect of all such places.

(3) Notwithstanding anything contained in clause (j) of section 2, a place, to which all or any of the provisions of this Act applicable to factories are for the time being applicable in pursuance of a declaration under sub-section (1), shall, to the extent to which such provisions are so made applicable but not otherwise, be deemed to be a factory.”

STATEMENT OF OBJECTS AND REASONS.

Section 5 of the Factories Act, 1934, has been found defective in two respects. In the first place, a notification under sub-section (1) can apply only to such factories as were in existence on the date of the notification and not to factories similar in all respects which may be established subsequently (though of course such later established factories could be notified separately). Secondly, factories once brought under the scope of the Act by virtue of a notification under sub-section (1) may subsequently cease to be under it by the operation of the provisions in sub-section (3), if they employ less than 10 workers continuously for 12 months; and if a factory goes out of the ambit of the Act in this manner, a fresh notification will be necessary to bring it back within the Act when it again employs more than 10 persons. The Bill which is intended to remedy these defects, seeks to give power to Provincial Governments to enable them to notify once for all the application of the provisions of the Act to any specified classes of establishments employing 10 or more persons.

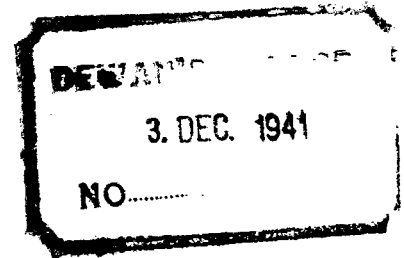
A. RAMASWAMI MUDALIAR.

GOVERNMENT OF INDIA.
LEGISLATIVE ASSEMBLY DEPARTMENT.

BILL

Further to amend the Factories Act, 1934; and Ann

*Honourable Diwan Bahadur Sir A. Ramaswami
Mudaliar.)*



The Gazette of India

PUBLISHED BY AUTHORITY

EW DELHI, SATURDAY, NOVEMBER 29, 1941

Separate paging is given to this Part in order that it may be filed as a separate compilation.

PART IV

Acts of the Indian Legislature assented to by the Governor General

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT

The following Act of the Indian Legislature received the assent of the Governor General on the 20th November, 1941, and is hereby promulgated for general information:—

ACT No. XIV OF 1941

An Act further to amend the Code of Criminal Procedure, 1898

V of 1898.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, so as to provide for the sending for service and execution, within the local limits of the jurisdiction of Courts established or continued by the authority of the Central Government or the Crown Representative in any part of India outside British India, of summonses and warrants for the arrest of accused persons issued in British India, and also for the service and execution in British India of the like processes issued by such Courts;

It is hereby enacted as follows:—

1. This Act may be called the Code of Criminal Procedure (Amendment) Act, 1941.

V of 1898.

2. After section 93 of the Code of Criminal Procedure, 1898, the following heading and sections shall be inserted, namely:—

"E.—Special Rules regarding processes issued for service or execution outside British India and processes received from outside British India for service or execution within British India.

93A. (1) Where a Court in British India desires that a summons issued by it to an accused person shall be served at any place outside British India within the local limits of the jurisdiction of a Court established or

Insertion of new heading and sections 93A, 93B and 93C in Act V of 1898.

Sending of summons for service outside British India.

continued by the authority of the Central Government or the Crown Representative in any part of India, it shall send such summons, in duplicate, by post or otherwise, to the presiding officer of that Court to be served.

(2) The provisions of section 74 shall apply in the case of a summons sent for service under this section as if the presiding officer of the Court to whom it was sent were a Magistrate in British India.

93B. Notwithstanding anything contained in section 82, where a Court in British India desires that a warrant issued by it for the arrest of an accused person shall be executed at any place outside British India within the local limits of the jurisdiction of a Court established or continued by the authority of the Central Government or the Crown Representative in any part of India, it may send such warrant, by post or otherwise, to the presiding officer of that Court to be executed.

93C. (1) Where a Court has received for service or execution a summons to, or a warrant for the arrest of an accused person issued by a Court established or continued by the authority of the Central Government or the Crown Representative in any part of India outside British India, it shall cause the same to be served or executed as if it were a summons or warrant received by it from a Court in British India for service or execution within the local limits of its jurisdiction.

(2) Where any warrant of arrest has been so executed the person arrested shall so far as possible be dealt with in accordance with the procedure prescribed by

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT

The following Act of the Indian Legislature received the assent of the Governor General on the 20th November, 1941, and is hereby promulgated for general information:—

ACT No. XV OF 1941

An Act further to amend the Code of Criminal Procedure, 1898.

WHEREAS it is expedient further to amend the Code of Criminal Procedure, 1898, for the purpose hereinafter appearing;

It is hereby enacted as follows:—

1. This Act may be called the Code of Criminal Procedure (Second Amendment) Act, 1941.

2. In sub-section (2) of section 162 of the Code of Criminal Procedure, 1898, after the figures "1872" the following words and figures shall be added, namely:—

" , or to affect the provisions of section 27 of that Act".

G. H. SPENCE,
Secy. to the Govt. of India.

THE GAZETTE OF INDIA, NOVEMBER 29 1941

GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT

The following Act of the Indian Legislature received the assent of the Governor General on the 20th November, 1941, and is hereby promulgated for

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT

The following Act of the Indian Legislature received the assent of the Governor General on the 26th November, 1941, and is hereby promulgated for general information:—

ACT No. XVII OF 1941

An Act further to amend the Aligarh Muslim University Act, 1920, for a certain purpose.

XL of 1920. WHEREAS it is expedient further to amend the Aligarh Muslim University Act, 1920, for the purpose herein-after appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Aligarh Muslim University (Amendment) Act, 1941. Short title and commencement

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

XL of 1920. 2. To sub-clause (a) of clause (3) of section 5 of the Aligarh Muslim University Act, 1920 (hereinafter referred to as the said Act), the following shall be added, namely:— Amendment of section 5, Act XL of 1920.

“in an institution maintained under sub-section (2) of section 12 or admitted to the privileges of the University under section 12A, or”.

3. In section 12A of the said Act the word “Intermediate” shall be omitted. Amendment of section 12A, Act XL of 1920.

G. H. SPENCE,
Secy. to the Govt. of India.

4. The appointments and elections referred to in section 8 of the said Act as amended by this Act, and the publication referred to in section 9 of the said Act may be made at any time after the passing of this Act and before this Act comes into force, but the Trustees so appointed and elected shall not assume office until this Act comes into force, and on the coming into force of this Act the term of office of the Trustees then holding office shall expire.

Transition
from existing
constitution
of Board of
Trustees.

G. H. SPENCE,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA
LEGISLATIVE DEPARTMENT

The following Act of the Indian Legislature received the assent of the Governor General on the 26th November, 1941, and is hereby promulgated for general information

ACT No. XIX OF 1941

An Act to regulate the employment of women in mines for a certain period before and after childbirth and to provide for payment of maternity benefit to them.

WHEREAS it is expedient to regulate the employment of women in mines for a certain period before and after childbirth and to provide for payment of maternity benefit to them;

It is hereby enacted as follows:—

1. (1) This Act may be called the Mines Maternity Benefit Act, 1941.

(2) It extends to the whole of British India

(3) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. In this Act, unless there is anything repugnant in the subject or context,—

(a) “child” includes a still-born child;

(b) “Chief Inspector”, “Inspector”, “employed”, “mine” and “owner” have the meanings assigned, respectively, to these expressions in section 3 of the Indian Mines Act, 1923;

(c) “manager” means the manager of the mine appointed in accordance with the provisions of the Indian Mines Act, 1923;

(d) “maternity benefit” means the payment referred to in section 5;

(e) “prescribed” means prescribed by rules made under this Act.

3. No owner or manager of a mine shall knowingly employ a woman and no woman shall engage in employment in any mine during the four weeks following the day on which she is delivered of a child.

Prohibition of employment of, and work by, women during certain period.
Right to obtain leave of absence in pregnancy and after delivery.

4. (1) If any woman employed in a mine who is pregnant gives notice either orally or in writing in the prescribed form to the manager of the mine that she expects to be delivered of a child within one month from the date of such notice, the manager shall permit her if she so desires to absent herself from work up to the day of her delivery and such absence shall be treated as a period of authorised absence on leave:

Provided that the manager may, on undertaking to defray the cost of such examination, require the woman to be examined by a qualified medical practitioner or midwife, and, if the woman refuses to submit to such examination or is certified on such examination as not pregnant or not likely to be delivered of a child within one month, he may refuse such permission.

(2) Any woman employed in a mine who is delivered of a child shall be permitted by the manager to absent herself from work for a period of four weeks from the date of her delivery, and her absence during such period shall be deemed to be authorised absence on leave if within seven days of her delivery she has given or sent to the manager notice of the delivery and of the date of delivery.

5. Every woman employed in a mine who has been continuously employed in that mine or in mines belonging to the owner of that mine for a period of not less than six months preceding the date of her delivery shall, if she complies with the conditions imposed by this Act,

be entitled to receive, and the owner of the mine shall be liable to make to her, in accordance with the provisions of this Act, a payment at the rate of eight annas a day for every day on which she is absent from work owing to her confinement during the four weeks immediately preceding and including the day of her delivery and for each day of the four weeks following her delivery.

Explanation.—Periods of casual absence as defined by rules made under section 15 or authorised absence on account of illness or leave shall count as employment in determining whether employment has been continuous.

6. (1) The Central Government may by rules made under section 15 provide that a woman entitled to maternity benefit under this Act shall, if at the time of her delivery she utilized the services of a qualified midwife or other trained person, receive in addition to the maternity benefit due to her a bonus not exceeding in amount three rupees : Payment of bonus.

Provided that she shall not receive such bonus if at the place chosen by her for her confinement she would have been entitled free of charge to the services of a qualified midwife or other trained person provided by the owner of the mine.

(2) Such rules may further provide for the determination by the Provincial Government of the amount of the bonus, and of the qualifications which shall be possessed by qualified midwives and other trained persons for the purposes of this section.

7. A woman entitled to maternity benefit under this Act, unless she has given the notice referred to in sub-section (1) of section 4, shall on being delivered of a child give notice of her delivery in the prescribed manner to the manager before the expiry of seven days from the date of her delivery, and shall before the expiry of six months from such date furnish proof of the prescribed nature to the manager both of her delivery and of the date of her delivery : Notice of delivery to be given to manager.

Provided that a woman giving notice under section 4 or this section may therein nominate a person for the purposes of sub-section (2) of section 9.

8. (1) Where a woman entitled to maternity benefit has given the notice referred to in sub-section (1) of section 4 and has obtained permission to absent herself from work up to the date of her delivery, the manager shall either at once or within three days pay to her maternity benefit for four weeks in advance. Payment of maternity benefit.

(2) A woman entitled to maternity benefit who has been delivered of a child shall, on furnishing the proof referred to in section 7,—

(a) if she has received an advance payment under sub-section (1), be paid the balance of the maternity benefit due to her at the end of the fourth week from the date of her delivery or within three days of the furnishing of proof, whichever date is later ;

(b) if she has received no such advance payment,—

(i) if the proof is furnished before the end of the fourth week from the date of delivery, be paid at once or within three days so much of the maternity benefit as is then due to her, and be paid the balance at the end of the said fourth week ;

(ii) if the proof is furnished after the end of the fourth week from the date of delivery, be paid at once or within three days the whole amount of the maternity benefit due to her.

Disposal of
maternity
benefit in
case of death
of woman
entitled to
receive it.

9. (1) If a woman entitled to maternity benefit who has received an advance under sub-section (1) of section 8 dies before being delivered of the child, the advance shall not be recoverable.

(2) If a woman entitled to maternity benefit having been delivered of a child dies before payment of the maternity benefit, or, where an advance under sub-section (1) of section 8 has been made, of the balance of the maternity benefit due to her is made, the amount due to her up to the date of her death shall, on the prescribed proof of the birth and date of the birth of the child and of the death and date of death of the woman being furnished at any time before the expiry of six months from the date of delivery, be paid if the child is living to the person who undertakes the care of the child, and if the child is not living to the person nominated by her under the proviso to section 7 or if she has made no such nomination to the legal representative of the deceased woman.

10. (1) When a woman absents herself from work in accordance with section 3, or has obtained permission to absent herself in accordance with section 4, it shall be unlawful for the manager to dismiss her during or on account of such absence, or to give notice of dismissal on such a day that the notice will expire during such absence.

(2) The dismissal of a woman at any time within six months before she is delivered of a child, if the woman but for such dismissal would have been entitled to maternity benefit under this Act, shall not have the effect of depriving her of that maternity benefit if the Chief Inspector is satisfied that her dismissal was without sufficient cause.

11. (1) Any woman claiming that maternity benefit to which she is entitled under this Act and any person claiming that a payment due under sub-section (2) of section 9 is improperly withheld may make a complaint to the Chief Inspector or any Inspector.

(2) On receipt of such complaint or on his own motion without any such complaint being made, the Chief Inspector or Inspector may make inquiry or cause an inquiry to be made, and if satisfied that a payment has been wrongfully withheld may direct the payment to be made in accordance with his orders.

12. Any woman who does any work for which she receives payment in cash or kind after she has been permitted under sub-section (1) of section 4 to absent herself from work, or who engages in employment in any mine in contravention of section 3, shall be punishable with fine which may extend to ten rupees, and, if she is entitled to maternity benefit under this Act, shall forfeit her right to any maternity benefit not already paid to her.

13. (1) Any owner or manager of a mine, who contravenes any provision of this Act for which no express penalty is provided, shall be punishable with fine which may extend to five hundred rupees.

(2) The Court imposing the fine may, if the contravention has resulted in depriving a woman of any maternity benefit due to her, order the whole or any part of the fine when paid to be applied in payment of compensation to the woman for any loss caused to her by the contravention of the provision on account of which the fine has been imposed, and an Appellate Court or the High Court in exercise of its powers of revision may also make such order.

14. (1) No prosecution under this Act shall be instituted except by or with the sanction of the Chief Inspector.

(2) No Court inferior to that of a Magistrate of the first class shall try an offence punishable under this Act or any rule made thereunder.

(3) No Court shall take cognisance of an offence punishable under this Act or any rule made thereunder, unless complaint thereof is made within six months of the date on which the offence is alleged to have been committed :

Provided that in computing the said period of six months any time spent in obtaining the sanction of the Chief Inspector required by sub-section (1) shall be excluded.

15. (1) The Central Government may, subject to the condition of previous publication, by notification in the official Gazette, make rules to carry out the purposes of this Act. Power of Central Government to make rules.

(2) In particular and without prejudice to the generality of the foregoing power, such rules may—

(a) require the maintenance of registers and records for the purposes of this Act and prescribe the form thereof ;

(b) prescribe the form of the notices referred to in section 4 and section 7, and require mines to supply copies thereof to women workers ;

(c) regulate the examination of women under the proviso to sub-section (1) of section 4, and the grant of the certificates therein referred to ;

(d) prescribe the nature of and the method of furnishing the proof referred to in section 7, section 8 and section 9 ;

(e) regulate the manner of applying for and paying maternity benefit ;

(f) assign duties to, and regulate the powers of, the Chief Inspector and Inspectors, for the purposes of this Act.

(3) Any rule made under this section may provide that a contravention thereof shall be punishable with fine which may extend to fifty rupees.

16. (1) The manager of every mine in which women are employed shall cause an abstract in the local Indian language of the provisions of this Act and of the rules made thereunder to be exhibited in the mine in such manner that they may come to the notice of every woman employed in the mine. Abstract of this Act and the rules made thereunder to be exhibited in mines.

(2) For any contravention of the provisions of this section the manager shall be punishable with fine which may extend to one hundred rupees.

17. The Central Government may, by notification in the official Gazette, exempt any mine or class of mines from the operation of this Act. Power of Central Government to exempt mines from operation of Act.

18. The provisions of this Act shall be binding on the Crown. Act binding on Crown.

G. H. SPENCE,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT

The following Act of the Indian Legislature received the assent of the Governor General on the 26th November, 1941, and is hereby promulgated for general information:—

ACT No. XX OF 1941

Act to limit to a maximum of fifty rupees per annum the amount payable in respect of any person by way of tax on professions, trades, callings or employments.

WHEREAS by section 142A of the Government of India Act, 1935, it is provided that no Provincial law relating to taxes for the benefit of a Province, or of a municipality, district board, local board, or other local authority there, in respect of professions, trades, callings or employments, shall be invalid on the ground that it relates to a tax on income and that the total amount of such tax payable in respect of any one person shall not, after the 31st day of March, 1939, exceed fifty rupees per annum;

AND WHEREAS it is further provided that any such tax which was in force during the financial year ending with the 31st day of March, 1939, may continue to be lawfully levied at a rate higher than fifty rupees per annum unless provision to the contrary is made by the Provincial Legislature;

AND WHEREAS it is expedient that provision should be made whereby the total amount payable in respect of any such person by way of such tax shall not exceed fifty rupees per annum;

It is hereby enacted as follows:—

1. (1) This Act may be called the Professions Tax Limitation Act, 1941.

(2) It extends to the whole of British India.

(3) It shall come into force on the 1st day of April, 1942.

2. Notwithstanding the provisions of any law for the time being in force, any taxes payable in respect of any one person to a Province, or to any one municipality, district board, local board or other local authority in any Province, by way of tax on professions, trades, callings or employments, shall from and after the commencement of this Act cease to be levied to the extent to which such taxes exceed fifty rupees per annum.

3. The provisions of section 2 shall not apply to any tax specified in the Schedule

THE SCHEDULE

(See section 2)

Taxes to which section 2 does not apply.

1. The tax on professions, trades and callings, imposed through fees for annual licences, under Chapter XII of the Cuttack Municipal Act, 1923.

Ben
III

2. The tax on trades, professions and callings, imposed under clause (f) of sub-section (1) of section 122 of the Nagpur Municipal Act, 1932.

Ben
XV

3. The tax on trades and callings carried on within the municipal limits and deriving special advantages from, or imposing special burdens on, municipal services, imposed under clause (ii) of sub-section (1) of section 128 of the United Provinces Municipalities Act, 1916.

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II

4. The tax on persons exercising any profession or art, or carrying on any trade or calling, within the limits of the municipality, imposed under clause (b) of sub-section (1) of the

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT

The following Act of the Indian Legislature received the assent of the Governor General on the 26th November, 1941, and is hereby promulgated for general information :—

ACT No. XXI OF 1941

An Act to empower the Federal Court to make rules for regulating the presentation of appeals lying to that Court.

WHEREAS it is expedient to empower the Federal Court to make rules for regulating the presentation of appeals lying to that Court, and for that purpose to repeal those provisions of the Code of Civil Procedure, 1908, which now regulate that matter ;

It is hereby enacted as follows :—

1. (1) This Act may be called the Federal Court Act, 1941. Short title and commencement.

(2) It shall come into force on such date as the Central Government may, by notification in the official Gazette, appoint.

2. Section 111A of the Code of Civil Procedure, 1908, and rule 17 of Order XLV of the First Schedule to the said Code shall be omitted. Repeal of section 111A and rule 17 of Order XLV of the First Schedule, Act V of 1908.

3. The Federal Court may, with the approval of the Governor General in his discretion, make rules for regulating the presentation and prosecution of appeals lying to that Court, including rules relating to the furnishing of security for costs, the proceedings, if any, to be had in High Courts in connection with such appeals, and the preparation and transmission to the Federal Court of the records in such appeals. Power of Federal Court to make rules.

G. H. SPENCE,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT

The following Act of the Indian Legislature received the assent of the Governor General on the 26th November, 1941, and is hereby promulgated for general information:—

ACT NO. XXII OF 1941

An Act further to amend the Indian Merchant Shipping Act, 1922

WHEREAS it is expedient further to amend the Indian Merchant Shipping Act, 1923, for a certain purpose:

It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Merchant Shipping (Amendment) Act, 1941.

(2) It shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint.

2. In sub-section (1) of section 193 of the Indian Merchant Shipping Act, 1923,—

- (a) for the words “sixteen and ninety-six” the words “eighteen and one hundred and eight” shall be substituted
- (b) for the word “available” the words “allotted and marked separately” shall be substituted and
- (c) for the word “pilgrims” the words “each pilgrim” shall be substituted.

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT

The following Act of the Indian Legislature received the assent of the Governor General on the 26th November, 1941, and is hereby promulgated for general information:—

ACT No. XXIII of 1941

An Act further to amend the Indian Income-tax Act, 1922.

WHEREAS it is expedient further to amend the Indian Income-tax Act, 1922, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. (1) This Act may be called the Indian Income-tax (Amendment) Act, 1941. Short title and commencement.

(2) It shall come into force at once; but effect shall not be given to the amendments hereby made in the Indian Income-tax Act, 1922, by section 4, section 6, section 7, section 8, clause (b) of section 10 and clause (a) of section 13 in the making of any assessment under that Act for any year before the year ending on the 31st day of March, 1943.

2. In clause (6C) of section 2 of the Indian Income-tax Act, 1922 (hereinafter referred to as the said Act), for the words "mutual insurance company" the words "mutual insurance association" shall be substituted. Amendment of section 2, Act XI of 1922.

3. After clause (ix) of sub-section (3) of section 4 of the said Act the following clauses shall be inserted, namely:— Amendment of section 4, Act XI of 1922.

'(x) Any income received—

(a) by a person accredited as representative in British India for political purposes of an Indian State or the Ruler thereof, as his remuneration from the State or Ruler for service in such capacity;

(b) by a Consul General, Consul, Vice-Consul or Consular Agent of a foreign State, as remuneration from such State for service in such capacity;

(c) by a person employed by the consulate of a foreign State, not being a British subject or the subject of an Indian State, as remuneration from such foreign State for service in such capacity;

(d) by a Trade Commissioner or other official representative in British India of the Government of any other part of the British Empire or of a foreign Government, as his official salary, if the official salary of the corresponding officials, if any, of the Central Government resident for similar purposes in the country concerned enjoy a similar exemption in that country;

(e) by a member of the staff of a Trade Commissioner or official representative referred to in sub-clause (d), as his official salary, when such member is a subject of the country represented, and the country represented has made corresponding provisions for similar exemptions in the case of members of the staff of the corresponding officials of the Central Government.

(xi) With effect from the 2nd day of September, 1939, the income chargeable under the head "Salaries" of a Nepalese member of the Nepalese Military Force serving with His

Majesty's Forces, or of any member of an Indian State Force so serving, and any other income accruing or arising without British India which is received in or brought into British India by any such member while the Force to which he belongs is serving with His Majesty's Forces.'

clause (a) of section 4A of the said Act,—

o sub-clause (iii) the word " or " shall be added ; and

fter sub-clause (iii) the following sub-clause shall be added, namely :—

(iv) is in British India for any time in that year and the Income-tax Officer is satisfied that such individual having arrived in British India during that year is likely to remain in British India for not less than three years from the date of his arrival

sub-section (2) of section 5A of the said Act the proviso shall be added, namely

vided that the Tribunal shall not be deemed to be invalidly constituted merely by reason of a temporary inequality caused by the death, retirement or removal of any member."

section 10 of the said Act,—

sub-section (2), in clause (b) of the proviso to clause (vi), after the words " owing to the profits or gains chargeable being less than the allowance," the following shall be inserted, namely

hen, subject to the provisions of clause (a) of the proviso to sub-section (2) of section 24,

sub-section (5);—

for clauses (b) and (c) the following clause shall be substituted, namely :—

(b) in the case of assets acquired before the previous year the actual cost to the assessee less all depreciation actually allowed to him under this Act, or a Act repealed thereby, or under executive orders issued when the Indian Income tax Act, 1886, was in force

in the first proviso, for the words, brackets and letters " clauses (a), (b) and (c) " the words, brackets and letters " clause (a) and (b) " shall be substituted

) the second proviso shall be omitted.

section 12 of the said Act the following shall be added, namely :—

Where an assessee lets on hire machinery, plant or furniture belonging to him and also buildings, and the letting of the buildings is inseparable from the letting of the said machinery, plant or furniture, he shall be entitled to allowances in accordance with the provisions of clauses (v) and (vi) of sub-section (2) of section 12 in respect of such buildings."

In sub-section (2) of section 14 of the said Act (a) to clause (b) the word " or " shall be added and

(b) after clause (b) the following clause shall be added, namely :—

“ (c) in respect of any income, profits or gains accruing or arising to him within an Indian State, unless such income, profits or gains are received or deemed to be received in or are brought into British India in the previous year by or on behalf of the assessee, or are assessable under section 42. ”

9. In sub-section (2) of section 16 of the said Act,— Amendment of section 16, Act XI of 1922.

(a) for the words beginning with “ and shall be increased by the amount of income-tax ” and ending with “ deemed to have been paid, credited or distributed ” the following words shall be substituted, namely :—

“ and shall be increased to such amount as would, if income-tax (but not super-tax) at the rate applicable to the total income of a company for the financial year in which the dividend is paid, credited or distributed or deemed to have been paid, credited or distributed, were deducted therefrom, be equal to the amount of the dividend : ”;

(b) in the proviso, for the words “ the income-tax to be added ” the words “ the increase to be made ” shall be substituted.

10. In section 17 of the said Act,—

Amendment of section 17, Act XI of 1922.

(a) in sub-section (1), after the words “ a subject of a State in India or Burma, ” the words “ or a native of a Tribal Area, ” shall be inserted ;

(b) after sub-section (2) the following sub-sections shall be added, namely :—

“ (3) Where there is included in the total income of any assessee any income exempted from tax under clause (c) of sub-section (2) of section 14, the super-tax payable by the assessee shall be an amount bearing to the total amount of the super-tax which would have been payable on the total income had no part of it been so exempted the same proportion as the total income less the portion so exempted bears to the total income.

(4) Where any income exempted from tax under clause (c) of sub-section (2) of section 14 which has been taken into account under sub-section (2) or sub-section (3) of this section as part of the total income of an assessee for the purpose of determining the income-tax or super-tax payable by him is in a subsequent year brought into or received in British India by the assessee and becomes chargeable with tax accordingly, the tax including super-tax payable by the assessee on his total income of that subsequent year shall be—

(a) the amount which bears to the total amount of the tax including super-tax which would have been payable on his total income as reduced by the amount of the income so brought into or received in British India had such reduced income been his total income the same proportion as his total income bears to such reduced income, or

- b) the amount which bears to the total amount of the tax including super-tax which would have been payable on the amount of the income so brought into or received in British India had such income been his total income the same proportion as his total income bears to the amount of the income so brought into or received in British India, never is the greater."

section (3E) of section 18 of the said Act the brackets and words " (together with the amount any income-tax payable by the company in respect of) " the brackets, words and figures " (increased accordance with the provisions of sub-section (2) section 16) " shall be substituted, and for the brackets and words " (together with the amount of income-tax as aforesaid) " the brackets and words " (increased as aforesaid) " shall be substituted.

12. To section 23 of the said Act the following sub-section shall be added, namely:-

Whenever the Income-tax Officer makes a determination in accordance with the provisions of sub-section (5), he shall notify to the firm by an order in writing the amount of the total income on which the determination has been based and the apportionment thereof between the several partners.

13. In sub-section (2) of section 24 of the said Act,--

(a) before the first proviso the following proviso shall be inserted, namely :-

Provided that--

where depreciation allowance is, under clause (b) of the proviso to clause (vi) of sub-section (2) of section 10, also to be carried forward, effect shall first be given to the provisions of this sub-section

the first proviso, the brackets and letter " (b) " shall be substituted;

the second proviso for the words " Provided further that " the brackets and letter " (c) " shall be substituted;

the third proviso the following shall be substituted, namely

where a change has occurred in the constitution of a firm, nothing in this section shall be deemed to entitle the firm to have set off so much of the loss proportionate to the share of a retired or deceased partner computed in accordance with the provisions of clause (b) of sub-section (1) of section 16 as exceeds his share of profits, if any, of the previous year in the firm, or to entitle any partner to the benefit of any portion of the said loss which is not apportionable to him under the said clause (b), and where any person carrying on any business, profession or vocation has been succeeded in such capacity by another person, otherwise than by inheritance, nothing in this section shall be deemed to entitle any person other than the person incurring the loss to have it set off against his income, profits or gains."

14. To sub-section (4) of section 25 of the said Act the following proviso shall be added, namely :— Amendment of
section 25, Act
XI of 1922.

“ Provided that sub-sections (3) and (4) shall not apply—

(a) to super-tax except where the income, profits and gains of the business, profession or vocation were assessed to super-tax for the first time either for the year beginning on the 1st day of April, 1920, or for the year beginning on the 1st day of April, 1921 ;

(b) to a business, profession or vocation on which income-tax was at any time charged in the hands of a company under the Indian Income-tax Act, 1886, or on which income-tax would have been charged in the hands of a company for the assessment year ending on the 31st day of March, 1918, if the company having been in existence in that year had also been in existence in the year ending on the 31st day of March, 1917.”

II of 1886.

15. In sub-section (2) of section 30 of the said Act, after the words “ objected to ” the following shall be inserted, namely :— Amendment of
section 30, Act
XI of 1922.

“ or of the order in writing notifying the amount of total income on which the determination under sub-section (5) of section 23 was based and the apportionment thereof between the several partners or of the loss computed under section 24 ”.

16. In section 31 of the said Act,— Amendment of
section 31, Act
XI of 1922.

(a) in clause (a) of sub-section (3), the words beginning with “ and, in the case of an assessment ” and ending with “ any member of the association, ” shall be omitted ;

(b) after sub-section (3) the following sub-sections shall be added, namely :—

“ (4) Where as the result of an appeal any change is made in the assessment of a firm or association of persons or a new assessment of a firm or association of persons is ordered to be made, the Appellate Assistant Commissioner may authorise the Income-tax Officer to amend accordingly any assessment made on any partner of the firm or any member of the association.

(5) The Appellate Assistant Commissioner shall, on the conclusion of the appeal, communicate the orders passed by him to the assessee and to the Commissioner.”

17. In section 33 of the said Act,— Amendment of
section 33, Act
XI of 1922.

(a) in sub-section (1), for the words “ on which he is served with notice of such order ” the words “ on which such order is communicated to him ” shall be substituted ;

(b) in sub-section (2), for the words “ at any time before the expiry of sixty days from the date of the order ” the words “ within sixty days of the date on which the order is communicated to the Commissioner by the Appellate Assistant Commissioner ” shall be substituted ;

sub-section (2) the following sub-section
shall be inserted, namely:

The Tribunal may admit an appeal after
the expiry of the sixty days referred to
in sub-sections (1) and (2) if it is satisfied
that there was sufficient cause for not pre-
sented it within that time.

After section 33 of the said Act the following
shall be inserted, namely:—

A. (1) The Commissioner may on his own motion
the record of any proceeding under this Act in
an order has been passed by any authority sub-
ordinate to him and may make such inquiry or cause
inquiry to be made and, subject to the provisions
of the Act, may pass such order thereon, not being an
order prejudicial to the assessee, as he thinks fit:

Provided that the Commissioner shall not revise any
order under this sub-section if—

where an appeal against the order lies to the
Appellate Assistant Commissioner or to the
Appellate Tribunal, the time within which

20. In sub-section (1) of section 35 of the said Act, Amendment of section 35, Act for the word and figure "section 33" the word, figure XI of 1922. and letter "section 33A" shall be substituted.

21. For section 40 of the said Act the following section shall be substituted, namely :—

'40. (1) Where the guardian or trustee of any person being a minor, lunatic or idiot (all of which persons are hereinafter in this sub-section included in the term "beneficiary") is entitled to receive on behalf of such beneficiary, or is in receipt on behalf of such beneficiary of, any income, profits or gains chargeable under this Act, the tax shall be levied upon and recoverable from such guardian or trustee, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from any such beneficiary if of full age or sound mind and in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly.

Substitution of new section for section 40, Act XI of 1922.

Guardians, trustees and agents.

(2) Where the trustee or agent of any person not resident in British India and not being a minor, lunatic or idiot (such person being hereinafter in this sub-section referred to as a beneficiary) is entitled to receive on behalf of such beneficiary, or is in receipt on behalf of such beneficiary of, any income, profits or gains chargeable under this Act, the tax, if not levied on the beneficiary direct, may be levied upon and recovered from such trustee or agent, as the case may be, in like manner and to the same amount as it would be leviable upon and recoverable from the beneficiary if in direct receipt of such income, profits or gains, and all the provisions of this Act shall apply accordingly.'

22. In sub-section (1) of section 41 of the said Act, Amendment of section 41, Act for the words "appointed under a duly executed trust deed" the words "appointed under a trust declared by a duly executed instrument in writing whether testamentary or otherwise" shall be substituted.

Amendment of section 41, Act XI of 1922.

23. In section 45 of the said Act, the words and figure "or section 32" shall be omitted.

Amendment of section 45, Act XI of 1922.

24. In section 46 of the said Act,—

Amendment of section 46, Act XI of 1922.

(a) in the proviso to sub-section (2), the words "in respect of the attachment and sale of debts due to the assessee" and the words "in respect of the attachment and sale of debts due to a judgment debtor" shall be omitted ;

(b) to sub-section (7) the following proviso shall be added, namely :—

" Provided that where the sum payable is allowed to be paid by instalments the period of one year herein referred to shall be reckoned from the date on which the last of such instalments was due."

25. For section 49B of the said Act the following section shall be substituted, namely :—

Substitution of new section for section 49B, Act XI of 1922.

"49B. Where any dividend has been paid, credited or distributed or is deemed to have been paid, credited or distributed to any of the persons specified in section 3 who is a shareholder of a company which is assessed to income-tax in British India or elsewhere, such person shall be deemed in respect of such dividend himself to have paid income-tax (exclusive of super-tax) at the rate applicable to the total income of a company for the financial year in which the dividend has been paid, credited or distributed or is deemed to have been paid, credited or distributed on so much of the dividend as bears to the whole the same proportion as the amount of income on which the company is liable to pay income-tax bears to the whole income of the company."

Income-tax on company's dividend deemed to have been paid by shareholder.

Amendment of section 49C, Act XI of 1922. 26. For sub-section (1) of section 49C of the said Act the following sub-section shall be substituted, namely :—

Relief granted to a company to be deemed relief granted to shareholder.

“(1) Where any dividend has been paid, credited or distributed or is deemed to have been paid, credited or distributed to a shareholder of a company which has obtained the relief referred to in section 49 or granted under section 49A or under the India and Burma (Income-tax Relief) Order, 1936, the shareholder shall be deemed in respect of such dividend himself to have obtained such relief at the rate at which such relief has been granted in respect of income-tax only to the company for the financial year ending the year in which the dividend was paid, credited or distributed or is deemed to have been paid, credited or distributed.”

Addition of Explanation to section 49D.

27. To section 49D of the said Act Explanation shall be added, namely :

Explanation.—The expression “Indian income-tax” in this section means income-tax and super-tax charged in accordance with the provisions of this Act.

Amendment of section 52, Act XI of 1922.

28. In section 52 of the said Act, for the words, brackets and figures “or sub-section (2) of section 32” the words, brackets and figures “or sub-section (3) of section 33” shall be substituted.

Amendment of section 54, Act XI of 1922.

29. In clause (1) of sub-section (2) of section 54 of the said Act, for the words “to a Returning Officer” the words “to any person charged by law with the duty of inquiring into the qualifications of electors” shall be substituted.

Amendment of section 58, Act XI of 1922.

30. In sub-section (1) of section 58 of the said Act, for the words, brackets and figures “sub-section (2) of section 14” the words, brackets, letters and figures “clauses (a) and (b) of sub-section (2) of section 14” shall be substituted.

Amendment of section 58C, Act XI of 1922.

31. In clause (d) of sub-section (1) of section 58C of the said Act, for the words “from the trustees” the words “by the trustees” shall be substituted.

7. In sub-section (3) of section 26 of the said Act, ^{Amendment of section 26, Act XV of 1940.} after clause (c) the following word and clause shall be inserted, namely :—

“ or

(d) in the case of any business which includes the winning of any mineral (including mineral oil) the winning of which is of exceptional importance for the prosecution of the present war, an increase in the output of the mineral which was essential in the national interest and which has had the effect of shortening the period during which but for such increased wartime output the source of the mineral might have been expected to be exhausted ;”.

8. In Schedule I to the said Act,—

(a) after rule 5 the following rule shall be inserted, ^{Amendment of Schedule I, Act XV of 1940.} namely :—

‘ 5A. (1) In computing for any chargeable accounting period ending after the end of March, 1941, and in relation thereto for the standard period, if any, the profits of a business other than a business to which sub-rule (2) of rule 4 of this Schedule applies, or the profits of a part of a business other than a part of a business to which sub-rule (2A) of the said rule applies, no deduction shall be made in respect of interest on borrowed money or in respect of any other consideration given for the use of borrowed money :

Provided that, as respects any such chargeable accounting period which commences before the said end of March, the application of this rule shall be subject to the provisions of section 7A of this Act :

Provided further that this rule shall not apply to the computation of profits of any business for any chargeable accounting period the standard profits for which are ascertained by reference to the minimum amount specified in sub-section (4) of section 6 of this Act :

Provided further that where a direction has been given by a Board of Referees under sub-section (3) of section 6, or by the Central Board of Revenue under sub-section (1) of section 26 of this Act, that the standard profits shall be computed as if the profits during the standard period were such greater amount as it thinks just, such amount shall be increased by the amount of the interest on or other consideration for the borrowed money during the standard period.

(2) In this rule and in rule 2A of the Second Schedule “ borrowed money ” means borrowed money which, apart from the provisions of the said rule 2A, would have been deductible in computing capital.;

(b) after rule 11 the following rule shall be added, namely :—

“ 12. (1) In computing the profits of any chargeable accounting period no deduction shall be allowed in respect of expenses in excess of the amount which the Excess Profits Tax Officer considers reasonable and necessary having regard to the requirements of the business and, in the case of directors’ fees or other payments for services, to the actual services rendered by the person concerned :

Provided that no disallowance under this rule shall be made by the Excess Profits Tax Officer unless he has obtained the prior authority of the Commissioner of Excess Profits Tax.

(2) Any person who is dissatisfied with the decision of the Excess Profits Tax Officer under this rule may appeal in the prescribed time and manner to the Appellate Tribunal.”

Amendment of
Schedule II,
Act XV of
1940.

9. In Schedule II to the said Act,—

(a) after rule 2 the following rule shall be inserted, namely :—

“ 2A. In computing for any chargeable accounting period ending after the end of March, 1941, and in relation thereto for the standard period, if any, the average capital of a business other than a business to which sub-rule (2) of rule 4 of the First Schedule applies, or the average capital of a part of a business other than a part of a business to which sub-rule (2A) of the said rule applies, no deduction shall be made in respect of borrowed money :

Provided that, as respects any such chargeable accounting period which commences before the said end of March, the application of this rule shall be subject to the provisions of section 7A of this Act :

Provided further that the same deduction shall be made in respect of accruing liabilities for interest as would have been made if this rule had not been enacted.”

(b) in rule 6, for the words “ second proviso ” the words “ second or third proviso ” shall be substituted

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT

The following Act of the Indian Legislature received the assent of the Governor General on the 26th November, 1941, and is hereby promulgated for general information:—

ACT No. XXV OF 1941

An Act to regulate the extent to which railway property shall be liable to taxation imposed by an authority within a Province.

WHEREAS it is expedient to regulate the extent to which property vested in His Majesty for the purposes of the Central Government, being property of a railway, shall be liable to taxation imposed by an authority within a Province;

It is hereby enacted as follows:—

1. (1) This Act may be called the Railways (Local Authorities' Taxation) Act, 1941. Short title and extent.

(2) It extends to the whole of British India.

2. In this Act,—

Definitions.

(a) "local authority" means a local authority as defined in the General Clauses Act, 1897, and includes any authority legally entitled to or entrusted with the control or management of any fund for the maintenance of watchmen or for the conservancy of a river;

(b) "railway administration" has the meaning assigned to the expression in clause (6) of section 3 of the Indian Railways Act, 1890.

3. (1) In respect of property vested in His Majesty for the purposes of the Central Government, being property of a railway, a railway administration shall be liable to pay any tax in aid of the funds of any local authority, if the Central Government, by notification in the official Gazette, declares it to be so liable. Liability of railways to taxation by local authorities.

(2) While a notification under sub-section (1) is in force, the railway administration shall be liable to pay to the local authority either the tax mentioned in the notification or in lieu thereof such sum, if any, as a person appointed in this behalf by the Central Government may, having regard to the services rendered to the railway and all the relevant circumstances of the case, from time to time determine to be fair and reasonable. The person so appointed shall be a person who is or has been a Judge of a High Court or a District Judge.

4. The Central Government may, by notification in the official Gazette, revoke or vary any notification issued under clause (1) of section 135 of the Indian Railways Act, 1890; and where a notification is so revoked any liability arising out of the notification to pay any tax to any local authority shall cease, and where a notification is so varied the liability arising out of the notification shall be varied accordingly. Modification of existing liability to taxation.

5. Nothing in this Act shall be construed as debarring any railway administration administering a railway from entering into a contract with any local authority for the supply of water or light or for the scavenging of railway premises, or for any other service which the local authority may be rendering or be prepared to render within any part of the local area under its control. Saving.

G. H. SPENCE,
Secy. to the Govt. of India.

GOVERNMENT OF INDIA

LEGISLATIVE DEPARTMENT

The following Act of the Indian Legislature received the assent of the Governor General on the 26th November, 1941, and is hereby promulgated for general information

ACT No. XXVI OF 1941

An Act further to amend the Indian Companies Act, 1913

WHEREAS it is expedient further to amend the Indian Companies Act, 1913, for the purposes hereinafter appearing

It is hereby enacted as follows:

1. This Act may be called the Indian Companies Amendment) Act, 1941.

2. In section 104 of the Indian Companies Act, 1913 (hereinafter referred to as the said Act),—

(a) after sub-section (2), the following sub-section shall be inserted, namely:—

“(2A) If the registrar is satisfied that in the circumstances of any particular case the period of one month specified in sub-sections (1) and (2) for compliance with the requirements of this section is inadequate, he may extend that period as he thinks fit, and, if he does so, the provisions of sub-sections (1) and (2) shall have effect in that particular case as if for the said period of one month the extended period allowed by the registrar were substituted.”

(b) in the proviso to sub-section (3), for the words “within one month after the allotment” the words, brackets and figures “within the time specified in sub-sections (1) and (2)” shall be substituted.

(c) in sub-section (2) of section 282B of the said Act, for the words “shall be invested, and shall be invested only” the words “shall be either deposited in a Post Office Savings Bank account or invested” shall be substituted, and for the words “which are not so invested shall be” the words “which are not so deposited or invested shall be so deposited or” shall be substituted.

GOVERNMENT OF INDIA.

LEGISLATIVE DEPARTMENT

The following Act of the Indian Legislature received the assent of the Governor General on the 26th November, 1941, and is hereby promulgated for general information:—

ACT No. XXVII OF 1941

An Act to amend the Trade Marks Act, 1940.

V of 1940. WHEREAS it is expedient to amend the Trade Marks Act, 1940, for the purposes hereinafter appearing;

It is hereby enacted as follows:—

1. This Act may be called the Trade Marks (Amendment) Act, 1941. Short title.

V of 1940. 2. In sub-section (1) of section 4 of the Trade Marks Act, 1940 (hereinafter referred to as the said Act),— Amendment of section 4, Act V of 1940.

(a) for the words "Trade Mark Registry" the words "Trade Marks Registry" shall be substituted;

(b) after the words "all registered trade marks" the words "except those entered in the Bombay register under Chapter IX" shall be inserted.

3. In sub-section (1) of section 53 of the said Act, after the words "to the Registrar" the words "or the Bombay Registrar, as the case may be" shall be inserted. Amendment of section 53, Act V of 1940.

4. For section 63 of the said Act the following sections shall be substituted, namely:— Substitution of new sections for section 63, Act V of 1940.

"63. (1) For the purpose of facilitating the registration of trade marks in respect of textile goods there shall be established at Bombay a separate Trade Marks Registry (in this Act referred to as the Bombay Registry) and a separate Register of Trade Marks (in this Act referred to as the Bombay register) shall be kept thereat wherein shall be entered, in the manner provided by section 4, all registered trade marks which are under the provisions of this Chapter to be registered by the Bombay Registrar. Separate Trade Marks Registry at Bombay.

(2) Subject to the superintendence and direction of the Central Government, the Bombay register shall be kept under the control and management of an officer appointed by the Central Government who shall be called the Registrar of Textile Trade Marks at Bombay (in this Act referred to as the Bombay Registrar).

(3) In all proceedings under this Act in relation to trade marks, applications for the registration of which lie under the provisions of this Chapter to the Bombay Registrar, the Bombay Registrar shall exercise and discharge the powers and functions of the Registrar to the exclusion of the Registrar, and, in interpreting the provisions of this Act in relation to any such proceedings or any such trade marks, references, except in sub-sections (1) and (2) of section 4 and this Chapter and section 85, to the Patent Office or the Trade Marks Registry shall be construed as references to the Bombay Registry, and references to the Registrar and to the register shall be construed as references to the Bombay Registrar and the Bombay register, respectively;

Provided that the Central Government may, for the purpose of resolving a conflict or preventing an overlap of jurisdiction between the Registrar and the Bombay Registrar, direct by which of the two any particular matter arising out of this Act or out of any proceeding thereunder shall be disposed of.

63A. (1) When the applicant for registration of a trade mark used or proposed to be used in relation to textile goods is a person having his principal place of business situated in any one of the following Provinces, namely, Madras, Bombay, the Punjab, the Central Province and Berar, the North-West Frontier Province or Sind, the application shall lie only to the Bombay Registrar.

When once an application for registration of a trade mark used in relation to textile goods has been made to the Registrar or the Bombay Registrar, no subsequent change in the location of the principal place of business of the applicant shall divest the Registrar or the Bombay Registrar, as the case may be, of any of his powers or functions under this Act in relation to such trade mark.

For section 65 of the said Act the following shall be substituted, namely :

65. (1) The Registrar shall supply a copy of every entry in the register relating to trade marks registered in respect of textile goods to the Bombay Registrar, who shall maintain a permanent record of the copy so received which shall be called the Calcutta Textile Marks Record.

The Bombay Registrar shall supply a copy of every entry in the Bombay register to the Registrar who shall maintain a permanent record of the copy so received which shall be called the Bombay Textile Marks Record.

Trade marks in respect of textile goods of which registration has been refused shall be entered by the Registrar and the Bombay Registrar in separate lists which shall be called the Calcutta Refused Textile Marks Lists and the Bombay Refused Textile Marks Lists, respectively ; a copy of the Calcutta List shall be kept at the Bombay registry and a copy of the Bombay List at the Trade Marks Registry at the Patent Office as permanent records.

The Textile Marks Records and the Refused Textile Marks Lists shall at all convenient times be open to the inspection of the public subject to such conditions and restrictions as may be prescribed."

10. In sub-section (2) of section 84 of the said Act,— Amendment of
section 84, Act
V of 1940.

(a) in clause (e), for the word "Record" the word "Records" and for the word "List" the word "Lists" shall be substituted;

(b) in clause (g), the words and figures "or under section 63" shall be omitted;

(c) after clause (g) the following clause shall be added, namely :—

"(r) make such provisions as are necessary to ensure uniformity of practice between the Registrar and the Bombay Registrar in all matters arising out of the registration of trade marks in respect of textile goods."

G. H. SPENCE,
Secy. to the Govt. of India.